

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)

of)

MOLOKAI PUBLIC UTILITIES, INC.)

For review and approval of rate)
increases; revised rate schedules;)
and revised rules.)
_____)

Docket No. 2009-0048

PUBLIC UTILITIES
COMMISSION

2010 MAY -4 P 3:41

FILED

**MOLOKAI PUBLIC UTILITIES, INC.'S MEMORANDUM IN OPPOSITION
TO WEST MOLOKAI ASSOCIATION'S MOTION
FOR ISSUANCE OF SUBPOENAE**

and

CERTIFICATE OF SERVICE

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**MOLOKAI PUBLIC UTILITIES, INC.'S MEMORANDUM IN OPPOSITION
TO WEST MOLOKAI ASSOCIATION'S MOTION
FOR ISSUANCE OF SUBPOENAE**

MOLOKAI PUBLIC UTILITIES, INC. ("MPU"), by and through its attorneys, Morihara Lau & Fong LLP, submits this memorandum in opposition to West Molokai Association's ("WMA") Motion for Issuance of Subpoenae, dated April 29, 2010 ("Motion"). This memorandum in opposition is timely filed in accordance with the Prehearing Conference Order issued by the Public Utilities Commission ("Commission") on April 28, 2010.

Objection to Subpoena for Daniel Orodenker

WMA cites two reasons for the need for Mr. Orodenker's testimony: (1) as a policy witness; and (2) to clarify his responses to information requests with respect to Molokai Properties, Limited's ("MPL") ownership and responsibility for maintenance of fire hydrants.

Without waiving any right to object to the relevancy or materiality of the issues raised by WMA, or the redundancy of testimony, MPU asserts that the testimony sought

to be elicited from Mr. Orodenker can be obtained from examination of Mr. Peter Nicholas, who, as indicated at the Prehearing Conference held on April 28, 2010, will be made available for cross-examination.

Policy Issues. WMA asserts:

Because the nature of this case involves numerous policy issues, with regard to the allocation of MPUI's and MPL's resources in the recent past and for the immediate future, WMA believes Daniel Orodenker is the only person who can speak authoritatively on recent MPUI policies leading to the filing of the application.

Memorandum in Support of West Molokai Association's Motion for Issuance of a Subpoenae at second page (unnumbered).

Contrary to WMA's assertion, Mr. Nicholas is more qualified than Mr. Orodenker to discuss policy issues regarding allocation of MPUI and MPL resources and policies leading to the filing of the application. Mr. Nicholas is the Executive Director of MPL and an officer and director of MPU. Mr. Orodenker, on the other hand, held no position with MPU, and, as General Manager of MPL, held a lower position in the organization than Mr. Nicholas.

Fire Hydrants. Although Mr. Orodenker sponsored responses on behalf of MPL regarding fire hydrants, Mr. Nicholas is equally familiar with the subject as Mr. Orodenker. Inasmuch as Mr. Nicholas will be available for questioning at the hearing, there is no need for Mr. Orodenker's presence.

Objection to Subpoena for Harold Edwards

According to WMA, Harold Edwards "is one of the few individuals knowledgeable with regard to all the considerations made with regard to the construction of the Puunana Water Treatment Facility."

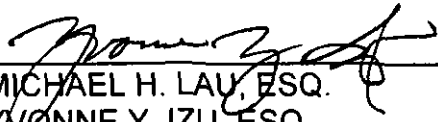
During the prehearing conference held on April 27, 2010, WMA's attorney represented that because MPU provided inadequate responses to certain information requests, Mr. Edwards (and Mr. Orodener) were required as witnesses to supply fuller responses. WMA has failed to indicate, and MPU has been unable to discern, the information requests relating to "all the considerations made with regard to the construction of the Puunana Water Treatment Facility." Had such information request been proffered, MPU would have had the opportunity to research and respond, and the response may have made this subpoena request unnecessary. WMA should not be allowed, at this late date and through the subpoena process, to raise new issues that could have been raised in the discovery process.

Furthermore, it should be noted that Peter Nicholas was an officer and director of MPU at the time that the new treatment plant was installed. Mr. Edwards, on the other hand, has not been with the Company for three years now. Mr. Nicholas, therefore, would be as able as Mr. Edwards to respond to WMA's questions. Thus, to the extent that the Commission may allow this issue to be addressed, Mr. Nicholas, who is voluntarily making himself available at the hearing, could provide responses. There is no need, therefore, to subpoena Mr. Edwards.

Conclusion

Based on the foregoing, MPU respectfully requests that the Commission reject WMA's request for the issuance of subpoenae to Daniel Orodenker and Harold Edwards.

DATED: Honolulu, Hawai'i, May 4, 2010.



MICHAEL H. LAU, ESQ.
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Morihara Lau & Fong LLP
Attorneys for MOLOKAI PUBLIC UTILITIES, INC.

CERTIFICATE OF SERVICE

I (we) hereby certify that copies of the foregoing document were duly served on the following parties, by having said copies delivered as set forth below:

MR. DEAN NISHINA Executive Director Department of Commerce and Consumer Affairs Division of Consumer Advocacy 335 Merchant Street, Suite 326 Honolulu, Hawai'i 96813	3 copies Hand Deliver
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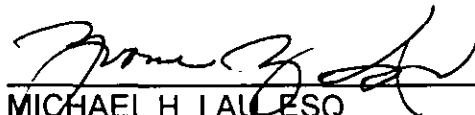
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Attorney for MOLOKAI PROPERTIES LIMITED

DATED: Honolulu, Hawai'i, May 4, 2010.



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